

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GARDEN CITY BOXING CLUB INC.,

Plaintiff,

v.

LEPINSKI ENTERPRISES INC., a
Washington corporation doing business as
Vuelve A La Vida, DOUGLAS LEPINSKI,
VUELVE A LA VIDA, a business entity,

Defendants

CASE NO. C06-5527RJB

ORDER DENYING MOTION
FOR ORDER OF DEFAULT AND
EXTENDING DEADLINE FOR
FILING JOINT STATUS
REPORT

This matter comes before the Court on the plaintiff's Motion for Order of Default (Dkt. 21) and the plaintiff's "Joint" Status Report and Discovery Plan (Dkt. 23). The Court has considered the pleadings filed in support of the motion and the remainder of the file herein.

I. BACKGROUND

Defendant Lepinski Enterprises, Inc. was served with a Summons and Complaint on January 11, 2007. Dkt. 21. On January 19, counsel appeared on behalf of all defendants. Dkt. 16. On February 21, 2007, the plaintiff filed a Motion for Order of Default on the grounds that the defendant had appeared but failed to defend against the action. Dkt. 21. On February 22, 2007, the defendant filed its answer. Dkt. 22. The motion is noted for March 8, 2007, and the defendant

1 has not yet responded.

2 A Joint Status Report was due in this case on February 22, 2007. Dkt. 18. On that date,
3 the plaintiff filed a status report that was not joint with all parties. Dkt. 23.

4 **II. DISCUSSION**

5 **A. DEFAULT**

6 The entry of default is governed by Federal Rule 55, which provides as follows: "When a
7 party against whom a judgment for affirmative relief is sought has failed to plead or otherwise
8 defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the
9 clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule 55 requires that the moving
10 party provide notice to the defaulting party before moving for entry of default:

11 [I]n the case of a defaulting party who has entered an appearance, the moving party must
12 give the defaulting party written notice of the requesting party's intention to move for the
13 entry of default at least five judicial days prior to filing its motion and must provide
14 evidence that such notice has been given in the motion for entry of default.

15 Local Rule CR 55(a).

16 Plaintiff's counsel apparently contacted defendant's counsel by letter on February 12 to
17 notify the defendant of the due dates for filing the answer and the Joint Status Report. Dkt. 23-2.
18 This letter does not provide notice of the plaintiff's intention to move for the entry of default as
19 required by Local Rule 55. The declaration accompanying the Motion for Order of Default also
20 fails to establish that the defendant was provided with the requisite notice. *See* Dkt. 21 at 3
21 (declaration). The Court should therefore deny the motion as not in accordance with the Local
22 Rules.

23 **B. JOINT STATUS REPORT**

24 The Court understands that the parties have attempted to confer and create a Joint Status
25 Report but have been unsuccessful thus far. Counsel has appeared on behalf of all defendants, and
26 there should be nothing prohibiting counsel for both parties from filing a Joint Status Report
27 forthwith. To allow the parties time to confer and craft a Joint Status Report that conforms to the
28 guidelines set forth in the Court's Minute Order Regarding Initial Disclosure, Joint Status Report,
and Early Settlement (Dkt. 4), the Court should extend the deadline for filing the Joint Status

Report to March 28, 2007.

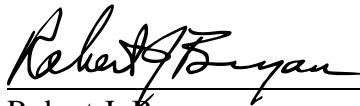
III. ORDER

Therefore, it is hereby

ORDERED that the plaintiff's Motion for Order of Default (Dkt. 21) is **DENIED**. The plaintiff is **ORDERED** to file a Joint Status Report with the Court, as ordered by Dkt. 4, or otherwise inform the Court of the status of the case as soon as possible and not later than March 28, 2007.

The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

DATED this 26th day of February, 2007.


Robert J. Bryan
United States District Judge